

## 1 HOUSE BILL NO. 743

2 INTRODUCED BY HARRIS, CAMPBELL, HENDRICK, MACLAREN, JACOBSON, NOENNIG,  
3 MCGILLVRAY, B. OLSON, ANDERSEN, EATON, STAHL, MAEDJE, JOPEK, BARRETT, HENRY,  
4 MCALPIN, ARNTZEN

5 BY REQUEST OF THE HOUSE LOCAL GOVERNMENT STANDING COMMITTEE  
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7 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A LEGISLATIVE FINDING THAT IT IS WITHIN A  
8 LOCAL GOVERNMENT'S AUTHORITY TO ENTER INTO ~~AN EMPLOYMENT CONTRACT WITH CERTAIN~~  
9 ~~CONDITIONS FOR REIMBURSEMENT OF TRAINING EXPENSES~~ CERTAIN CONTRACTS; AND REPEALING  
10 SECTION 7-32-4139, MCA."  
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12 WHEREAS, in 1999, the Legislature enacted Chapter 337, Laws of 1999, providing for reimbursement  
13 of training expenses for a police officer to a city or town if the officer leaves employment within 36 months of  
14 service; and

15 WHEREAS, in the 2005 Legislative Session, the same protection for counties regarding the training  
16 costs of Deputy Sheriffs is being sought in House Bill No. 19; and

17 WHEREAS, the House Standing Committee on Local Government seeks to make a finding that the  
18 ability to include these provisions in any employment contract is within the contract authority granted to local  
19 governments and statutory authorization is unnecessary.  
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21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
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23 NEW SECTION. Section 1. Finding -- contract authority. (1) Pursuant to Article XI, section 6, of the  
24 Montana constitution, a local government unit adopting a self-government charter may exercise any power not  
25 prohibited by the constitution, law, or charter.

26 (2) Article XI, section 4, of the Montana constitution provides that a local government unit without  
27 self-government powers has powers provided or implied by law and that the powers of incorporated cities and  
28 towns and counties must be liberally construed.

29 (3) Section 7-1-2101 states that a county has the powers specified in this title or in special statutes and  
30 has powers that are necessarily implied from those expressed powers.

(4) Section 7-1-2103 states that a county has the power to make contracts that may be necessary to the exercise of its powers.

(5) Section 7-1-2104 states that a county's powers can only be exercised by the board of county commissioners or by agents and officers acting under their authority or authority of law.

(6) Therefore, the legislature finds that it is within a county's contract authority to enter into any contract necessary for the exercise of its power, including but not limited to a contract for reimbursement that may require that the county be reimbursed for the cost of basic course training if an employee leaves employment before completing a reasonable period of service.

**NEW SECTION. Section 2. Finding -- contract authority.** (1) Pursuant to Article XI, section 6, of the Montana constitution, a local government unit adopting a self-government charter may exercise any power not prohibited by the constitution, law, or charter.

(2) Article XI, section 4, of the Montana constitution provides that a local government unit without self-government powers has powers provided or implied by law and that the powers of incorporated cities and towns and counties must be liberally construed.

(3) Section 7-1-4124 states that a municipality with general powers has the power, subject to the provisions of state law, to contract with persons and to hire, direct, and discharge employees.

(4) Therefore, the legislature finds that it is within a local government's contract authority to enter into any contract necessary for the exercise of its power, including but not limited to a contract for reimbursement that may require that the local government be reimbursed for the cost of basic course training if an employee leaves employment before completing a reasonable period of service.

**NEW SECTION. Section 3. Repealer.** Section 7-32-4139, MCA, is repealed.

**NEW SECTION. Section 4. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 7, chapter 1, part 21, and the provisions of Title 7, chapter 1, part 21, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 7, chapter 1, part 41, and the provisions of Title 7, chapter 1, part 41, apply to [section 2].

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